

21. (Currently Amended) A method for managing health care-related information about a patient as electronic records over a communications network comprising:

electronically handling the records as a plurality of component fields maintained in a database of a health care organization, each component field associated with a particular type of patient-data associated with the patient;

determining access rules to selectively govern access to the component fields by both health care providers and non health care providers, the access rules determined by the patient;

applying the access rules before the component fields are accessed;

providing access based on the access rules to a first predetermined amountgroup of the component fields of the records when a first access parameter is present, the first access parameter relating to desired access by a first group of individuals, the providing access based on the access rules to the first predetermined group of the component fields including providing access to the first group of individuals, the first predetermined group of the component fields relating to a first medical condition of the patient; and

providing access based on the access rules to a second predetermined amountgroup of the component fields of the records when a second access parameter different from the first access parameter is present, the second predetermined amountgroup of the component fields not identical to the first predetermined amountgroup of the component fields, the second access parameter relating to desired access by a second group of individuals not identical to the first group of individuals, the providing access based on the access rules to the second predetermined group of the component fields including providing access to the second group of individuals, the second predetermined group of the component fields relating to a second medical condition of the patient; and

completely denying to the second group of individuals access to at least a portion of the first predetermined group of the component fields of the records when the second access parameter is present.

22. (Canceled – incorporated into Claim 21) ~~The method of Claim 21 wherein:~~

~~the first access parameter relates to desired access by a first group of individuals;~~

~~the second access parameter relates to desired access by a second group of individuals not identical to the first group of individuals;~~

~~the providing access to the first predetermined amount of the component fields includes providing access to the first group of individuals, the first predetermined amount relating to a first medical condition of the patient; and~~

~~the providing access to the second predetermined amount of the component fields includes providing access to the second group of individuals, the second predetermined amount relating to a second medical condition of the patient.~~

23. (Original) The method of Claim 21 wherein the determining access rules includes considering a role of a person desiring access, the method further comprising evaluating a login identifier associated with the person, the login identifier associated with the role of the person.

24. (Previously Amended) The method of Claim 21 wherein:

the determining access rules includes considering a role of a person desiring access;

the first group of individuals includes access parameter relates to desired access by a first health care provider having a first role;

the second group of individuals includes a second health care provider having a second role not identical to the first role; and

the first predetermined amount group of the component fields is not all of the component fields and the second predetermined group of the component fields is not all of the component fields; and

the first predetermined group of the component fields is not identical to the second predetermined group of the component fields.

25. (Canceled) ~~The method of Claim 24 wherein the second access parameter relates to desired access by a billing or accounting personnel and wherein the second predetermined amount of the component fields is a fraction of all of the component fields.~~

26. (Canceled) ~~The method of Claim 25 wherein the component fields include patient welfare component fields relating to information about health of the patient, the method further comprising denying the billing or accounting personnel access to the patient welfare component fields.~~

27. (Previously Amended) The method of Claim 21 wherein:
the ~~determining access rules includes considering a role of a person desiring access;~~
the second group of individuals includes access parameter relates to desired access by a
personal relation who is not a medical care provider of the patient; and
the second predetermined amountgroup of the component fields is a fraction of all of the
component fields.
28. (Previously Amended) The method of Claim 21 wherein:
the ~~first access parameter relates to desired access by a first group of individuals;~~
the ~~second access parameter relates to desired access by a second group of individuals~~
not identical to the first group of individuals;
the ~~providing access to the first predetermined amount of the component fields includes~~
providing access to the first group of individuals, the secondfirst predetermined amountgroup of
component fields is indicative of good health of the patient; and
the ~~providing access to the second predetermined amount of the component fields~~
includes providing access to the second group of individuals and denying access to the first
group of individuals, the firstsecond predetermined amountgroup of component fields is indicative
of bad health of the patient.
29. (Canceled) The method of Claim 21 wherein:
the ~~first access parameter relates to desired access by a first group of individuals;~~
the ~~second access parameter relates to desired access by a second group of individuals~~
not identical to the first group of individuals;
the ~~providing access to the first predetermined amount of the component fields includes~~
providing access to the first group of individuals, the ~~first predetermined amount satisfying a first~~
~~criterion about monetary amounts owed by the patient;~~ and
the ~~providing access to the second predetermined amount of the component fields~~
includes providing access to the second group of individuals, the ~~second predetermined amount~~
~~satisfying a second criterion about monetary amounts owed by the patient.~~
30. (Original) The method of Claim 21 wherein the determining access rules includes:

associating with one of the component fields permitted transactions selected from the group consisting of create, display, modify, and transmit, or any combination thereof;

associating with the one component field unpermitted transactions selected from the group consisting of create, display, modify, and transmit, or any combination thereof; and

restricting manipulation of the one component field to only the permitted transactions.

31. (Previously Amended – Incorporates prior Claims 38, 39) The method of Claim 21 ~~30~~ wherein the determining access rules includes considering a role of a person desiring access further comprising:

selectively organizing the records or component fields thereof according to selectable parameters based at least in portion upon the particular types of patient data; and

compiling the organized records or component fields thereof into an electronic file history that is storable in the electronic database for later access.

32. (Previously Amended) The method of Claim 21 wherein the determining access rules ~~includes allowing the patient to determine a portion of the access rules~~ the first group of individuals includes health care providers and the second group of individuals includes health care providers not included in the first group of individuals.

33. (Previously Amended) A method for handling health care-related records of a patient comprising:

enabling an electronic database to store the records;

defining a threshold event relating to both ~~medical~~ physiological and ~~nonmedical~~ nonphysiological data about the patient, the threshold event defined by the patient;

programming the database or an associated computer with the threshold event;

analyzing the records stored in the database to determine if the threshold event has occurred; and

using the database or the associated computer to automatically provide an electronic notification, that is not an offer to have medical services performed, to ~~an~~ a non health care provider selected by the patient ~~interested entity~~ upon occurrence of the threshold event as defined by the patient.

34. (Original) The method of Claim 33 wherein the records contain information received from various communications devices coupled to the database or the associated computer.

35. (Original) The method of Claim 33 wherein the threshold event relates to monetary amounts owed by the patient to a health care provider and wherein the electronic notification includes a request to make payments to the health care provider after services are performed.

36. (Original) The method of Claim 35 wherein the interested entity is the patient.

37. (Original) The method of Claim 33 wherein:

the threshold event relates to receipt by the database of an anticipated record;

the interested entity is a personal relation of the patient; and

the electronic notification includes at least a portion of the record.

38. (Currently Amended/New – like Claim 21) ~~A method for managing patient health care related information comprising:~~

~~configuring an electronic database to maintain the information as records;~~

~~handling the records as a plurality of component fields, the component fields associated with particular types of patient data; and~~

~~selectively organizing the records or component fields thereof according to selectable parameters based at least in portion upon the particular types of patient data.~~

A method for managing health care-related information about a patient as electronic records over a communications network comprising:

electronically handling the records as a plurality of component fields maintained in a database of a health care organization, each component field associated with a particular type of patient data associated with the patient;

determining access rules to selectively govern access to the component fields, the access rules determined at least in part by the patient;

applying the access rules before the component fields are accessed;

providing based on the access rules for a first group of individuals access to a first set of component fields of the records when a first access parameter is present, the first access

parameter relating to desired access by the first group of individuals, the first set of component fields relating to a first condition of the patient;

providing based on the access rules for a second group of individuals not identical to the first group of individuals access to a second set of component fields of the records when a second access parameter not identical to the first access parameter is present, the second set of component fields not identical to the first set of component fields, the second access parameter relating to desired access by the second group of individuals, the second set of component fields relating to a second condition of the patient; and

denying to the second group of individuals access to at least a portion of the first set of component fields of the records.

39. (Previously Amended/New) The method of Claim 38 further comprising compiling the organized records or component fields thereof into an electronic file history that is storable in the electronic database for later access. The method of Claim 38 wherein the second condition relates to non-medical information about the patient.

40. (Previously Amended/New) The method of Claim 38 wherein one of the selectable parameters concerns patient billing related data. The method of Claim 38 wherein the second group of individuals includes billing or accounting personnel and wherein the second set of component fields relates to financial information about the patient.

41. (Previously Amended/New) The method of Claim 40 wherein the first set of component fields includes information about medical health of the patient, the method further comprising denying the billing or accounting personnel access to any portion of the first set of component fields.

42. (Previously Amended/New) The method of Claim 38 wherein:

the first set of component fields satisfies a first criterion about monetary amounts owed by the patient; and

the second set of component fields satisfies a second criterion about monetary amounts owed by the patient.

43. (Previously Amended/New) The method of Claim 42 wherein:

the first group of individuals includes billing or accounting personnel; and

the second group of individuals includes personal relations of the patient.

44. (Previously Amended/New) The method of Claim 38 wherein:

the first set of component fields satisfies a first criterion about monetary amounts owed
by the patient;

the second set of component fields relates to medical health of the patient.

the first group of individuals includes billing or accounting personnel; and

the second group of individuals includes health care providers.

RESPONSE

Claims 21 and 38 have been slightly amended for clarification. The rest remain the same as last time. These claims are patentable for the reasons discussed in brief below.

The Cited Patents May Not Be Combined to Reject My Claims

In the absence of a proper prima facie case of obviousness, an applicant who complies with the other statutory requirements is entitled to a patent. See *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of establishing a prima facie case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). The Examiner can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references. *In re Fine*, 837 F.2d 1071, 1074, 5USPQ2d 1596, 1598.

References That Teach Away Cannot Be Combined to Reject Claimed Invention

"When there are differences in the teachings between two prior art references, they may teach away from their combination, and result in a finding lacking any motivation to combine and preclude an obviousness claim. See *Winner Int'l Royalty Corp. v. Ching-Rong Wang*, 202 F.3d 1340 (Fed Cir. 2000).

A "reference will teach away if it suggests that the line of development flowing from the reference's disclosure is unlikely to be productive of the result sought by the applicant." *Karsten Mfg. Corp. v. Cleveland Golf Co.*, 242 F.3d 1376; 58 U.S.P.Q.2D 1286 (Fed. Cir. 2001); *In re Gurley*, 27 F.3d 551, 553, 31 USPQ2d 1130, 1131 (Fed. Cir. 1994). References that teach away from the claimed invention cannot be combined to defeat patentability. *Winner International Royalty Corp. v. Wang*, 202 F.3d 1340; 53 U.S.P.Q.2D 1580 (Fed. Cir. 2000).

Hindsight Cannot Be Selectively Employed to Deprecate Claimed Invention

We "cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." *Ecolchem, Inc. v. Southern Cal. Edison Co.* 227 F.3d 1361; 56 U.S.P.Q.2D 1065 (Fed. Cir. 2000); *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d 1780, 1783 (Fed. Cir. 1988). "Defining the problem in terms of its solution reveals improper hindsight in the selection of the prior art relevant to obviousness," *Monarch Knitting Mach. Corp. v. Sulzer Morat GmbH*, 139 F.3d 877, 880, 45 USPQ2d 1977, 1981 (Fed. Cir. 1998)

When References Are Properly Combined, They Must Produce the Claimed Invention

In holding an invention obvious in view of a combination of references, there must be some suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to select the references and combine them in the way that would produce the claimed invention. *Karsten Mfg. Corp. v. Cleveland Golf Co.*, 242 F.3d 1376; 58 U.S.P.Q.2D 1286 (Fed. Cir. 2001); see also, e.g., *Heidelberger Druckmaschinen AG v. Hantscho Commercial Prods., Inc.*, 21 F.3d 1068, 1072, 30 USPQ2d 1377, 1379 (Fed. Cir. 1994) (When the patent invention is made by combining known components to achieve a new system, the prior art must provide a suggestion, or motivation to make such a combination.").

Claims 21-32, 38-44

Gupta Patent

These are excerpts that quote relevant teachings:

The steps for designing the security system design are:

1. Design a security classification hierarchy that serves the security needs of the organization. 9:14.

Generally, only high level roles such as system administrator have full access to these objects, and most other system users have read-only access. 6:39-42.

For example, a patient may have read-only access to his entire folder, but can modify only his bio-data information. 8:30-32.

Similarly, Figure 5 illustrates the provision of selective access and access determinations to benefit the organization, and programmed deprivation of access and related determinations for patients.

Wilkins Patent

These are excerpts that quote relevant teachings:

An individualized patient electronic medical records system that provides unlimited patient access to her/his medical records, including text and other data. Abstract.

Thus, the present invention provides an individualized patient electronic medical records system for unlimited patient access to her/his personal and comprehensive medical records. 3:16-20.

... the mobile storage device (individual patient records) 20 is a computer-based storage device, e.g., CD rom, diskette, tape, etc. 4:63

However, access to the information by medical care providers and/or insurance providers and administrators, particularly emergency medical care providers, is not impeded by password or other protective means. 3:11-15.

Schoenberg Patent

These are excerpts that quote relevant teachings:

A medical information system receives patient data and information from various sources and displays such information in a variety of formats for use by members of a medical team in a hospital, clinic, or office. Abstract.

Use of the system in a hospital can effect a significant savings in the time spent by the medical team in reviewing and recording patient information. 6:10-12.

Claims 21, 38

My Claimed Invention

Claim 21 recites "determining access rules to selectively govern access to the component fields by both health care providers and non health care providers, the access rules determined by the patient".

Claim 38 recites "determining access rules to selectively govern access to the component fields, the access rules determined at least in part by the patient".

In both claims, I have added the limitation "maintained in a database of a health care organization" to clarify the context of my invention.

My claimed invention reflects a fundamental shift in values and vision for the industry. My invention significantly advances the health care industry by vesting real (not marginal, as in

Wilkins) power in patients to exercise comprehensive control over their own records. Patients, and not their hired service providers, control access to their records by others.

Nothing teaches or motivates the combination of the cited patents except improper hindsight

Gupta fundamentally teaches the prior art paradigm of determining selective records access from the perspective of the professional organization exclusively. Gupta unequivocally concerns a "security classification hierarchy that serves the security needs of the organization". 9:14. Likewise, Schoenberg teaches the well known convention of selective records access by the medical team, and expressly concerns: "A medical information system receives patient data and information from various sources and displays such information in a variety of formats for use by members of a medical team in a hospital, clinic, or office." Abstract.

In contrast to selective access, an excerpt from Wilkins expressly requires unlimited, unfettered access to records by health care providers and others:

However, access to the information by medical care providers and/or insurance providers and administrators, particularly emergency medical care providers, is not impeded by password or other protective means. 3:11-15.

- *Can this preceding quote from Wilkins be understood as unimpeded access in emergency situations only, as raised during the interview?*

No. The plain language and context of Wilkins emphasizes unimpeded access for medical care providers (and others) at all times.

Because of fundamental, conflicting differences in the teachings between selective access (Gupta) versus free access (Wilkins) by health care professionals, the references "teach away from their combination, and result in a finding lacking any motivation to combine and preclude an obviousness claim". See Winner Int'l Royalty Corp. v. Ching-Rong Wang, 202 F.3d 1340 (Fed Cir. 2000). Only hindsight supports their combination.

The patents teach away from my claimed invention

The Gupta (and Schoenberg) patents do not individually or in combination teach my invention, as recited. Both patents clearly fail to mention any kind of patient participation in determining records access for others because these patents reflect an industry value driven by the dispositive influence of health care professionals/organizations and not the preferences of their patients.

- *Can the "administrator" discussed in Gupta be equivalent to a patient, as raised during interview?*

No. Gupta clearly uses the terms "administrator" and "system administrator" interchangeably in their ordinary sense to describe the role of an IT person who has "full access" (Figure 5, 6:40) as opposed to the patient who "may have only read-only access to his entire folder" (8:30).

Wilkins teaches a rather limited recognition that the patient should be able to enjoy some limited ability to control only those records that are downloaded to a personal "CD rom, diskette, tape, etc." 4:63. Wilkins fails to teach vesting power in the patient to decide who else gets to see her records maintained in the database of the health care organization. In fact, Wilkins expressly requires unfettered access to records by health care providers. The limited teachings in Wilkins fall well short of "encroaching" on the forbidden domain of health care professionals and their otherwise exclusive control over medical records to the exclusion of patients. Even in Wilkins, the patient remains subservient in the handling of her own records.

- *Does Wilkins teach a "feature of allowing a patient to determine access", as stated in the Detailed Action at page 5?*

No. Wilkins teaches the limited concept of allowing a patient to exercise some control over a simple CD rom, diskette, tape, etc. containing her own records. This limited teaching does not extend to allowing a patient to program rules about who else will be permitted to access to her records in the database of a medical care organization.

- *Does Wilkins allow the patient to dictate which medical care professionals get to access the CD rom, diskette, tape, etc., as raised during interview?*

No. As expressly taught by Wilkins at 3:11-15, "access to the information by medical care providers and/or insurance providers and administrators, particularly emergency medical care providers, is not impeded by password or other protective means". In perspective, the question and answer do not bear on my invention except insofar as Wilkins' teachings again reveal the widespread and well-accepted notion that patient control over records are subservient to the unfettered privilege of medical care professionals.

Further, Wilkins concerns a mere CD rom, tape, diskette, etc. as a static, simplistic store of personal records information. My claimed invention in contrast is a powerful records system having a database on which to execute dynamic access rules over a communications network. The purposes and context of Wilkins versus my invention are completely different.

Gupta (and Schoenberg) and Wilkins teach away from my invention because the line of development flowing from their disclosures (i.e., medical industry is paramount over patient preferences over records access) is exactly contrary to my invention's empowering of the patient to decide who will see the patient's records. See Karsten Mfg. Corp. v. Cleveland Golf Co., 242 F.3d 1376; 58 U.S.P.Q.2D 1286 (Fed. Cir. 2001).

Even if Gupta and Wilkins are somehow be combined, their combined teachings do not produce my claimed invention

The combination of these patents would hypothetically teach a records access system that:

(Gupta) provides the professional organization selective access to all of the patient's records in accordance with the organization's preferences, and not the patient's, and

(Wilkins) provides the patient (and other health care professionals) an unfettered ability to access to her own records on a personal CD rom, tape, diskette, etc.

No combination of any of the cited patents achieves my invention of, for example, allowing a patient to herself selectively determine who else will see her records. In combination, the patents clearly fail to teach my invention's claimed limitations of, for example:

- "component fields maintained in a database of a health care organization"
- providing access to the component fields to health care providers and others based on "access rules determined by the patient"

Assuming that their combination is even permissible, the teachings of Gupta, Schoenberg, and Wilkins still cannot be combined "in the way that would produce the claimed invention". Karsten Mfg. Corp. v. Cleveland Golf Co., 242 F.3d 1376; 58 U.S.P.Q.2D 1286 (Fed. Cir. 2001).

Thus, Claims 21 and 38 are patentable. Further, all of the other claims that depend on Claims 21 and 38 are patentable because they depend on patentable Claims 21 and 38. The other claims are additionally patentable because they each recited further limitations that further illustrate their patentability.

For example, Claim 27 recites “the second group of individuals includes a personal relation who is not a medical care provider of the patient”. None of the cited patents teach this feature of allowing a patient to provide access to, for example, his cousin or friend or astrologist. I frankly don’t understand the Detailed Action at page 7 in rejecting this claim. The cited discussions relate only to access by medical professionals or the patient herself, not a personal relation.

Claims 33-37

Surwit Patent

These are excerpts that quote relevant teachings:

In view of the above discussion, it is an object of the present invention to allow health care providers to quickly and easily monitor many patients simultaneously and to automatically identify patients with medical conditions and to organize identified medical conditions by severity. 2:26-31.

Data transmitted from a patient monitoring system may be analyzed substantially simultaneously with the transmission thereof . . . to identify emergency medical conditions requiring immediate medical attention. 2:56.

In response to identifying an emergency medical condition, treatment information may be automatically communicated to the respective patient monitoring system 4:8.

The Surwit patent deals exclusively with medical conditions in the monitoring, diagnosing, prioritizing, and treating remotely located patients (Abstract).

Claim 33

This claim recites “defining a threshold event relating to both medical and nonmedical data about the patient, the threshold event defined by the patient” and “automatically provide an electronic notification, that is not an offer to have medical services performed, to a non health care provider selected by the patient upon occurrence of the threshold event”.

Like the other patents, Surwit reflects entrenched thinking focused only on the needs of medical professionals and fails to accommodate the multidimensional needs of the traditionally powerless patient. First, Surwit discloses threshold events that deal exclusively with medical information (e.g., diabetes) because Surwit’s sole focus is medical monitoring. Second, Surwit fails to teach hybrid medical/nonmedical threshold events determined by the patient because Surwit is focused on medical threshold events, which are determined exclusively by medical professionals. Third, Surwit fails to teach any provision of a notification to non health care providers as selected by the patient because its sole focus is medical treatment and monitoring, limiting the scope of notification recipients to medical professionals.

- *Is the claimed invention similar to the well known alarm systems triggered by, for example, dead batteries or empty vending machines, as raised in the interview?*
No. In those systems, the alarms are automatically sent to technician professionals for repair or maintenance, not the consumer or people selected by the consumer. My invention is distinguished by the limitations “medical and nonmedical data”, “event defined by the patient”, “non health care provider selected by the patient”.
- *Does a patient’s approval of transmission of certain data by medical organization equivalent or similar to allowing the claimed “threshold event [to be] defined by the patient”, as raised in the Detailed Action at page 11?*
No. Passive patient approval of actions initiated by the medical organization still recognize a subservient role for the patient. Further, the transmission of data in the prior art, even if later OKed by a patient, is initiated only if the needs of the organization